

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANNE ANTOR,

Plaintiff,

v.

Case No. 19-cv-10557-LJM-MKM  
Hon. LAURIE J. MICHELSON  
Mag. MONA K. MAJZOUB

JAGUAR LAND ROVER NORTH AMERICA, LLC,

Defendant.

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**DEFENDANT JAGUAR LAND ROVER NORTH AMERICA, LLC'S  
ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT**

NOW COMES, the Defendant, JAGUAR LAND ROVER NORTH AMERICA, LLC  
("JLRNA"), by and through its attorneys POLCE & ASSOCIATES, PC, and states the following as  
its Answer and Affirmative Defenses to Plaintiff's Complaint:

1. Defendant is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.
2. Defendant JLRNA admits that it is a New Jersey Limited Liability Company, authorized to do business in the State of Michigan. JLRNA denies that it is engaged in the manufacture of Jaguar vehicles. By way of further answer, JLRNA is the distributor/warrantor of Jaguar vehicles.

3. JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, leave Plaintiff to her proofs. By way of further answer, JLRNA states that Exhibit A speaks for itself.

4. JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, leave Plaintiff to her proofs. By way of further answer, JLRNA states that Exhibit B speaks for itself.

5. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

6. JLRNA states that the terms of its New Vehicle Limited Warranty speak for themselves.

7. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent that this paragraph contains factual allegations, JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.

8. JLRNA denies that there are any problems with the subject vehicle. As to the remaining allegations contained in this paragraph, JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated therein and as such, denies said allegations. By way of further answer, JLRNA states that Exhibit E speaks for itself.

9. JLRNA denies as untrue the allegations contained in paragraph 9 of Plaintiff's Complaint.

10. JLRNA denies as untrue the allegations contained in paragraph 10 of Plaintiff's Complaint.

11. JLRNA denies as untrue the allegations contained in paragraph 11 of Plaintiff's Complaint.

12. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent that this paragraph contains factual allegations, JLRNA neither admits nor denies the statements made in this paragraph, as they are not allegations that require a response.

WHEREFORE, JLRNA respectfully requests that the Complaint be dismissed with prejudice, and all costs, so wrongfully incurred, be awarded to this Defendant.

**COUNT I**  
**BREACH OF EXPRESS WARRANTIES**

13. Defendant incorporates by reference, its answers in Paragraphs 1 through 12 as though specifically set forth herein.

14. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

15. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

16. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.

17. JLRNA denies as untrue the allegations contained in paragraph 17 of Plaintiff's Complaint, in the form and fashion pled. By way of further answer, JLRNA states that its New Vehicle Limited Warranty speaks for itself.

18. JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.

19. JLRNA denies that there are any defects, “conditions” or non-conformities with the Vehicle. As to the remaining allegations contained in this paragraph, JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated therein and as such, denies said allegations.

20. JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.

21. JLRNA denies as untrue the allegations contained in paragraph 21 of Plaintiff’s Complaint.

22. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.

23. JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.

24. JLRNA denies as untrue the allegations contained in paragraph 24 of Plaintiff’s Complaint.

25. JLRNA denies as untrue the allegations contained in paragraph 25 of Plaintiff’s Complaint.

26. JLRNA denies as untrue the allegations that Plaintiff is entitled to any remedies.

WHEREFORE, JLRNA respectfully requests that the Complaint be dismissed with prejudice, and all costs, so wrongfully incurred, be awarded to this Defendant.

**COUNT II**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

27. JLRNA incorporates by reference, its answers in Paragraphs 1 through 26 as though specifically set forth herein.

28. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

29. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

30. JLRNA denies as untrue the allegations contained in Paragraph 30 of Plaintiff's Complaint.

31. JLRNA denies as untrue the allegations contained in Paragraph 31 of Plaintiff's Complaint.

WHEREFORE, JLRNA respectfully requests that the Complaint be dismissed with prejudice, and all costs, so wrongfully incurred, be awarded to this Defendant.

**COUNT III**

**REVOCATION OF ACCEPTANCE PURSUANT TO  
MCL 440.2608 AND/OR DAMAGES PURSUANT TO MCL 440.2715(2)**

32. Defendant incorporates by reference, its answers in Paragraphs 1 through 31 as though specifically set forth herein.

33. JLRNA denies that there is any defect or non-conformity with the Vehicle. As to the remaining allegations contained in this paragraph, JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated therein and as such, denies said allegations.

34. JLRNA denies as untrue the allegations contained in paragraph 34 of Plaintiff's Complaint.

35. JLRNA denies as untrue the allegations contained in paragraph 35 of Plaintiff's Complaint.

36. JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.

37. JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated in this paragraph, and as such, denies said allegations.

38. JLRNA neither admits nor denies the statements made in this paragraph, as they are not allegations that require a response.

WHEREFORE, JLRNA respectfully requests that the Complaint be dismissed with prejudice, and all costs, so wrongfully incurred, be awarded to this Defendant.

**COUNT IV**

**LIABILITY UNDER MAGNUSON-MOSS  
WARRANTY ACT (15 USC §2301 ET SEQ)**

39. Defendant incorporates by reference, its answers in Paragraphs 1 through 38 of their Answer as though specifically set forth herein.

40. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

41. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

42. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

43. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

44. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

45. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

46. Defendants deny as untrue the allegations contained in paragraph 46 of Plaintiff's Complaint. By way of further answer, Plaintiff has never had a transmission issue.

47. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

48. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

49. JLRNA denies that there is any defect or non-conformity with the Vehicle. As to the remaining allegations contained in this paragraph, JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated therein and as such, denies said allegations.

50. JLRNA denies as untrue the allegations that it breached any warranty, express or implied. JLRNA further denies as untrue the allegations that Plaintiff has suffered any damages. As to the remaining allegations contained in this paragraph, JLRNA is without sufficient information or knowledge to form a belief as to the truth of the allegations stated therein and as such, denies said allegations.

WHEREFORE, JLRNA respectfully requests that the Complaint be dismissed with prejudice, and all costs, so wrongfully incurred, be awarded to this Defendant.

**COUNT V**

**VIOLATION OF MCLA §445.901 ET SEQ**  
**(MICHIGAN CONSUMER PROTECTION ACT)**

51. Defendant incorporates by reference, its answers in Paragraphs 1 through 50 as though specifically set forth herein.

52. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

53. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

54. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

55. JLRNA denies as untrue the allegations contained in Paragraph 55 of the Complaint and every subparagraph therein, that it engaged in any unfair, unconscionable or deceptive acts, methods or practices. As to the remaining allegations contained in this paragraph, JLRNA is



without sufficient information or knowledge to form a belief as to the truth of the allegations stated therein and as such, denies said allegations.

56. The allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

57. JLRNA denies that it engaged in any unfair or deceptive acts or practices. JLRNA further denies that it violated the Michigan Consumer Protection Act. The remaining allegations contained in this paragraph are conclusions of law and, as such, require no response. To the extent this paragraph contains factual allegations, the allegations are denied.

58. JLRNA denies as untrue the allegations contained in paragraph 58 of Plaintiff's Complaint.

WHEREFORE, JLRNA respectfully requests that the Complaint be dismissed with prejudice, and all costs, so wrongfully incurred, be awarded to this Defendant.

### **AFFIRMATIVE DEFENSES**

In further answer and by way of affirmative defenses, Defendant states that it will rely upon the following, if applicable, and if supported by facts to be determined through appropriate discovery.

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred in whole or in part by her failure to mitigate damages, if any.
3. Plaintiff's claims are barred by the applicable statute of limitations.
4. Plaintiff fails to meet the statutorily required amount in controversy.

5. Plaintiff's claims are barred in whole or in part by the doctrines of waiver, estoppel, release and/or laches.

6. The proximate cause of Plaintiff's injuries, if any, was the conduct of Plaintiff and/or a third party, and not Defendant.

7. The Lease Agreement provides a disclaimer for implied warranties of merchantability and fitness for a particular purpose covering the property as authorized by MCL §440.2316.

8. If oral representations were made, which is denied, they were made in contravention of express existing policies by individuals without authority to make those representations.

9. Plaintiff's claims are barred by the language of the Lease.

10. Defendant has satisfied any express warranty obligations to the extent that they exist.

11. Defendant has satisfied any implied warranty obligations to the extent that they exist.

12. That Plaintiff has modified, abused, misused or failed to properly maintain the Vehicle.

13. Plaintiff's claims are barred by the doctrine of unclean hands.

14. Plaintiff's claims are barred due to spoliation of evidence.

15. Defendants assert that Plaintiff has never provided notice of revocation as required by MCLA §440.2967 et seq.

16. Defendants assert that Plaintiff's alleged attempt to revoke acceptance under MCL 440.2967 and/or MCL 440.2958 did not occur within a reasonable time, that Plaintiff has not satisfied the rest of the conditions set forth in MCL 440.2967 and/or MCL 440.2958, and thus revocation of acceptance is not available to Plaintiff.

17. Plaintiff has continued to use the vehicle and for that reason revocation is a remedy that is not available to Plaintiff.

18. Plaintiff is not entitled to revoke acceptance against Defendant JLRNA.

19. Defendant relies upon any and all releases or agreements to arbitrate which have been signed by the Plaintiff, barring actions for damages arising out of any dispute or controversy relating to the application for credit, the Lease, or any resulting transaction or relationship including that with a motor vehicle dealer or third party arising out of the agreement.

20. Defendant relies upon any and all defenses available to it contained in the Uniform Commercial Code as adopted by the State of Michigan.

21. Plaintiff's claims are barred because Plaintiff has failed to comply with the alternative dispute resolution process required by the manufacturer under the Magnuson-Moss Warranty Act.

22. Any wrongdoing (which is explicitly denied) was the result of bona fide error.

Defendant reserves the right to amend its answer to add additional or other affirmative defenses or to delete or withdraw affirmative defenses or to add counterclaims and/or cross-claims as may become necessary after reasonable opportunity for appropriate discovery.

WHEREFORE, JLRNA respectfully requests that the Complaint be dismissed with prejudice, and all costs, so wrongfully incurred, be awarded to this Defendant.

Respectfully submitted,

Date: February 25, 2019

s/Anthony P. Polce  
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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such to the following: *all ECF participants*

and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: *none*

Date: February 25, 2019

s/Nicole M. Schnur  
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